IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH.

F.A.O. No.5549 of 2006
Date of Decision: 22.12.2006

Pepsi Road Transport Corporation.

..... Appellant

Versus

Chandarkanta Devi and others.

..... Respondents

CORAM: Hon'ble Mr.Justice Uma Nath Singh
Hon'ble Mr.Justice Mahesh Grover

....

Present: Shri Harsh Aggarwal, Advocate for the appellant.

....

Mahesh Grover,J.

Pepsu Road Transport Corporation, the owner of the offending vehicle, has assailed the award dated 5.9.2006 of the Motor Accident Claims Tribunal, Jind (hereinafter described as `the Tribunal') passed in M.A.C.T. Case No.77 of 21.10.2004.

On 2.8.2004, the deceased- Ramesh Kumar was going from his office to Patiala Chowk, Jind on his scooter along with Muni Lal, as a pillion rider. After dropping Muni Lal, the deceased had proceeded towards

his destination and had just covered about 25-30 yards when the offending bus belonging to the appellant came from behind and went on the extreme left hand side of the road, hit kucha berm and then hit the scooter of the deceased, who sustained serious injuries resulting in his death. On a claim petition having been filed, an amount of Rs.5,90,000/- along with 6% interest per annum was awarded by the Tribunal as compensation to the heirs of the deceased, which included Rs.10,000/- on account of loss of estate and last rights etc.

The award of the Tribunal has been assailed to say that there was no evidence of negligence of the driver of the offending vehicle, which could hold the appellant liable to pay the compensation and besides, the quantum of compensation is also on the higher side.

We have heard the learned counsel for the appellant and have perused the award.

Issue no.1 was the specific issue pertaining to negligence of the driver of the offending vehicle. The Tribunal relied on the fact that the F.I.R. had been registered against the driver of the offending bus and he had been challenged and was facing trial. As against this, there was only a self-serving statement of the driver of the offending bus. In the absence of any cogent evidence, the findings of the Tribunal cannot be faulted with.

In so far as the second contention is concerned, the deceased was a Sub Divisional Engineer and was drawing salary of Rs.18,000/- per month. He was aged 56 years and was survived by his widow and three children, who all were of marriageable age. The Tribunal assessed the dependency at Rs.14,544/- and deducted 1/3rd as personal expenses and

applied the multiplier of `5'. Rs.10,000/- were awarded on account of loss of estate and for funeral expenses. Learned counsel for the appellant has been unable to show any exaggeration in the awarded amount.

Hence, both the pleas do not find favour with the Court and the appeal being devoid of any merit, is dismissed as such.

(Uma Nath Singh)
Judge

(Mahesh Grover)
Judge

December 22,2006
"SCM"